

New England Gas Workers Alliance

June 15, 2006

Secretary Mary Corttrel
One South Station
Boston, Ma. 02110

Dear Secretary Corttrel,

SUBJECT: 06-48 COMPLIANCE WITH GATE BOX MAINTENANCE

New England Gas Workers Alliance (NEGWA) would like to thank the Commission for the opportunity to submit the following comments regarding compliance with Gate Box maintenance regulations.

NEGWA would first bring attention to the Federal Dept. of Transportation (DOT) regulation: **49 CFR 192.365 Service lines: Location of valves.** This rule requires:

(b) *Outside valves.* Each service line must have a shut-off valve in a readily accessible location that, if feasible, is outside of the building.

(c) *Underground valves.* Each underground service-line valve must be located in a covered durable curb box or standpipe that allows ready operation of the valve and is supported independently of the service lines.”

Recognizing that the PHMSA - Pipeline and Hazardous Materials Safety Administration - does not require said shut-off to be an underground curb valve, it does clearly require a valve to be located outside of the building. While the regulation is clear, most of the operators in the state have opted to only recognize compliance to this regulation from the date of implementation (August 18, 1970) forward. This raises some questions as to the requirement that apply to service lines prior to this date. Does compliance with the regulation only for safety valves installed after August 1970 offer a uniform, adequate level of safety to all rate-payers? What, if any, requirements apply to services and valves installed prior to this date? The state CMR appears to address elevated pressure, two inch and above sized piping as well as buildings where people gather, leaving single, residential, low pressure services with no requirement according to these operators.

The second regulation NEGWA would offer comment on is the Code of Massachusetts Regulations (CMR) specifically; **220 C.M.R. § 101.06(14) Service Lines – Location of Valves.**

“(Section 192.365 MFS Standards.) All intermediate and high pressure services and all services two inches in diameter or larger shall be equipped with an underground curb shut off located in proximity to the property line except that whenever gas is

supplied to a theatre, church, school, factory or other buildings where large numbers of persons assemble, an outside shut off in such case will be required regardless of the size of the service or of the service pressure. All underground curb shut offs shall be readily identifiable and available for easy access by gas company personnel.”

NEGWA requested an interpretation of this regulation on June 6, 2005 and received a response from the Pipeline Division of the Department of Telecommunications and Energy on October 3, 2005. This interpretation was subsequently sent out to all operators by the Department. (See enclosure 1.) For the purposes of defining “underground curb shut offs shall be readily identifiable and available for easy access by gas company personnel”, the Pipeline Division relied on a December 13, 1973 Opinion Letter issued by the Office of Pipeline Safety (“OPS”) wherein ‘accessibility of valves’ was defined. In that letter, OPS stated:

“the intent of the requirement is to provide for the quick and easy operation of a valve installed for operating or emergency purposes on a main. The employees of a gas operator should be able to close such a valve within minutes after arriving at the valve site. If, for instance, a valve is buried and time must be spent to locate it, and then remove the paving and backfill in order to operate it, the requirement of Section 192.181(c)(1) has not been met.”

Several operators have stated in their opinion of this regulation that having “maps”, “measurements”, or “ties” to a curb valve (or gate box) is sufficient to satisfy this regulation. This would clearly conflict with the October 3, 2005 Pipeline Divisions interpretation letter.

NEGWA would offer the following examples of operator opinions that conflict with the Department’s interpretation letter. In response to the Departments May 19, 2006 order that companies provide “all relevant evidence that demonstrates that all valves on its mains and all curb valves on its service lines are immediately and readily accessible”

- **Keyspan**: responded in part: “to record those locations on the appropriate maps and field records such that they are easily identifiable and accessible by KeySpan personnel.”
- **NiSource**: “Whenever proper notification of construction is given, Bay State Gas Company maintains its valves in the affected area.”
- **NSTAR**: “Once installed, the Company maintains its valve boxes consistent with the requirements of Section 116B.”

NSTAR also explains in its Exhibit **NSTAR-PBA-1** in DTE 05-85 “In the experience of NSTAR Gas, gate boxes are easily accessible where (1) the box cover is totally or partially visible; (2) there is a record with measurements indicating the location of the box; and (3) electronic locating devices can detect a metallic cover on a gate box, even if buried.”

NEGWA would argue that the responses provided fall far short of the requirements of the above regulations. In the opinion of NEGWA, examples of full compliance can be found in the following:

- Keyspan's response to the May 19, 2006 order with regard to primary valves "Primary Valves are checked and serviced on annual basis in accordance with 49 C.F.R. 192.747."
- NSTAR filing under **05-85, Exhibit NSTAR-PBA-1** which in part states: "A recent sample of inspections on curb valve boxes indicated approximately 72 percent would not be locatable without detection equipment and would need to be raised in order to comply with the statute and the Department's follow-up directives." To ensure compliance, NSTAR proposed the following: "As a result of the enactment of G.L. c. 164, § 116B and the clarification recently provided by the Department, NSTAR Gas is now required to track municipal paving activities closely and to locate, adjust and clean all gate boxes on curb valves and distribution line valves along any and all repaving routes undertaken by the 52 municipalities within which NSTAR Gas provides service. These are activities that have not been required of NSTAR Gas in the past. NSTAR Gas will need to implement a comprehensive reorganization of its current work practices and available resources to locate, adjust and clean all gate boxes on curb valves and distribution line valves to ensure they are easily and immediately accessible for operating or emergency purposes as defined in the OPS opinion letter."

"To comply with the statute and the Department's directives, NSTAR Gas would commence a 10-year program at an annual cost of \$2.9 million."

The last regulation NEGWA would offer comment on is the chapter 164, § 116B ("Section 116 B")

"whenever the commonwealth or a city or town undertakes the repair of streets, roads or sidewalks the appropriate gas company shall provide for the maintenance and improvements of its gate boxes located in the streets, roads or sidewalks to be repaired, so that the gate boxes are more easily and immediately accessible. A gas company may apply for funds under [C]hapter 90 to assist in paying the costs of the maintenance and improvements."

This regulation is necessary to ensure when streets, roads or sidewalks undergo repairs, the gate boxes in those areas are not made less accessible. However, most of the operators in the state have identified this state law as the only requirement to ensure compliance to all regulations regarding curb valves (gate boxes). The Pipeline Division in its October 3, 2005 interpretation letter seems to rely on 116B as the only requirement to ensure compliance of all state and federal regulations.

NEGWA feels this opinion falls far short of full compliance to curb valve (gate box) regulations and offers the following examples to support that opinion.

- Several operators have assumed the practice of only raising/maintaining gate boxes in the direct area under construction. For example, if the street is being re-paved, the gate boxes in the sidewalk and/or on rate-payers private property (lawn) are not addressed since they do not fall under the requirement of 116B.

- NSTAR filing under **05-85, Exhibit NSTAR-PBA-1** demonstrates approximately 72% of their gate boxes are currently out of compliance with regulations.

Cities and Towns in the state historically only re-pave a small percentage of their streets and sidewalks in any given year. For these reasons NEGWA would object with the opinion that 116B (paving law) is sufficient to enforce compliance to all of the above mentioned regulations. Programs of years past were designed to ensure full compliance. Most, if not all of these programs have been eliminated over the years that addressed compliance with curb valves for services.

Sincerely,

Mark McDonald
Chairman
NEGWA

Enclosures (1)

cc: Sen. Jack Hart